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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,302	02/27/2002	Masanori Taketsugu	Q68714	5539

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EXAMINER

TRAN, TUAN A

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/083,302	<b>Applicant(s)</b> TAKETSUGU, MASANORI	
	<b>Examiner</b> Tuan A. Tran	<b>Art Unit</b> 2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Ejzak et al. (6,039,883).

Regarding claim 1, Ejzak discloses a mobile communication system (See fig. 1) comprising: a mobile terminal 1.1, 1.2 capable of designating a communication quality (high data rate communications) in requesting communication; a radio base station 1 connected to the mobile terminal 1.1, 1.2 through a radio channel; a radio network controller 190 connected to the radio base station 1 to control the communication quality

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between the mobile station 1.1, 1.2 and the radio base station 1, wherein the radio network controller 190 comprises a communication request reception determination unit, upon receiving a communication request which designates the communication quality from the mobile terminal, determining whether the received communication request is to be received , on the basic of a communication quality QoS (Quality of Service ) provided to communication which requests without communication quality (voice communications), wherein the communication quality QoS is based on an error rate (See col. 3 lines 61-63) in the radio channel between the mobile terminal 1.1, 1.2 and the radio base station 1 (See figs. 1, 4, 6-7 and col. 3 line 61 to col. 4 line 3, col. 9 line 22 to col. 11 line 19).

Regarding claims 2-3, Ejzak discloses as cited in claim 1. Ejzak further discloses the communication request reception determination unit further comprises: inquiry means for, upon receiving the communication request which designates the communication quality, inquiring of a communication quality measurement unit of the communication quality provided to communication which requests without communication quality, and the communication quality measurement unit measures the communication quality and outputs the communication quality; a comparison means for, upon receiving the communication request which designates the communication quality, comparing the measured communication quality with a predetermined threshold value; bandwidth setting means for resetting an allowable communication bandwidth on the basic of a comparison result from the comparison means; and determination means for determining whether the communication request is to be received, on the basic of a

bandwidth required by the received communication request and the allowable communication bandwidth reset by the bandwidth setting means (See figs. 1, 4, 6-7 and col. 3 lines 51-55, col. 9 line 22 to col. 11 line 19).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Chuah (6,377,548); Zicker et al. (5,832,378); Dokko (2001/0004599); Downing et al. (6,373,855); Hluchyj et al. (5,432,790); Hayano et al. (5,132,966); Turcotte et al. (6,181,684); Marin et al. (6,222,824); Kawakami et al. (6,560,231); Natarajan (5,826,169); Cave (6,631,269); Shoji et al. (2003/0003960); Cave (2004/0033807); Olofsson et al. (6,647,265); Oliva (6,459,681); Beming et al. (5,740,537); Yin et al. (5,982,748); Uebayashi et al. (2003/0198205).

### ***Allowable Subject Matter***

2. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

Regarding claim 7, Ejzak discloses as cited in claim 2. However, Ejzak does not mention that when the measured communication quality  $Q$  is higher than the first threshold  $Q_H$ , the bandwidth setting means increases the allowable communication

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bandwidth by a first predetermined value to reset a new allowable communication bandwidth, and when the measured communication quality  $Q$  is lower than the second threshold  $Q_L$  ( $Q_L < Q_H$ ), the bandwidth setting means decreases the allowable communication bandwidth by a second predetermined value to reset a new allowable communication bandwidth.

3. Claims 4-6 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 4-6, the closest prior art to the claimed subject matters is Ejzak. Ejzak discloses as cited in claims 1-2. However, Ejzak does not mention that when the measured communication quality  $Q$  is higher than the first threshold  $Q_H$ , the bandwidth setting means increases the allowable communication bandwidth by a first predetermined value to reset a new allowable communication bandwidth, and when the measured communication quality  $Q$  is lower than the second threshold  $Q_L$  ( $Q_L < Q_H$ ), the bandwidth setting means decreases the allowable communication bandwidth by a second predetermined value to reset a new allowable communication bandwidth.


### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571)272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quochien Vong can be reached on (571)272-7902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Tran

 11/22/05  
QUOCHIEN B. VUONG  
PRIMARY EXAMINER